



Express Mail No. EV452774280US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Brines *et al.* Confirmation No.: 5119  
Application No.: 09/717,057 Art Unit: 1647  
Filed: November 21, 2000 Examiner: DeBerry, Regina M.  
For: MODULATION OF EXCITABLE TISSUE Attorney Docket No.: 10165-010-999  
FUNCTION BY PERIPHERALLY  
ADMINISTERED ERYTHROPOIETIN

**AMENDMENT UNDER 37 C.F.R. § 1.114 AND**  
**STATEMENT OF SUBSTANCE OF INTERVIEW**

**Mail Stop RCE**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action, dated October 26, 2004, and pursuant to the Rules of Practice, please enter the amendments and consider the remarks below. Applicants transmit herewith a) a Request for Continued Examination together with the appropriate fee; b) a Supplemental Information Disclosure Statement; c) a List of References Cited by Applicants; and d) Copies of references EJ, FC and FD of record.

In the event that an additional fee is required in connection with this filing, please charge Jones Day Deposit Account No. 50-3013.

**Statement of Substance of Interview begins at page 2.**

**Amendments to the Claims begin at page 3.**

**Remarks begin at page 5.**

## **STATEMENT OF SUBSTANCE OF INTERVIEW**

Attorneys for Applicants submit this Statement of Substance of Interview in connection with the in person interview of November 22, 2004 between Examiner Regina M. DeBerry and Examiner Elizabeth Kemmerer and Applicants' representatives, Laura A. Coruzzi, Joseph P. Cahill, and Frederick J. Hamble, in connection with the above-identified application.

At the outset, Attorneys for Applicants thank Examiner DeBerry and Examiner Kemmerer for their courtesies extended during the interview on November 22, 2004 in connection with the above-identified application.<sup>1</sup>

During the in person interview of November 22, 2004, representatives for Applicants presented several published references, submitted herewith, that demonstrate enablement of the claimed methods, and agreed to submit an Amendment together with a Request for Continued Examination ("RCE") under 37 C.F.R. § 1.114. Examiner DeBerry and Examiner Kemmerer indicated such references and arguments would be favorably considered.

Applicants respectfully request entry of the foregoing remarks into the file history of the above-identified application.

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<sup>1</sup> In the Interview Summary, dated November 22, 2004, for the above-mentioned interview of that date, the Examiner indicated that the type of interview was telephonic. Applicants respectfully point out that the interview was in person.